SUPREME COURT OF THE UNITED STATES.

No. 174.

JOSEPH WEBSTER, PLAINTIFF IN ERROR,

vs.

HUGH T. REID.

IN ERROR TO THE SUPREME COURT OF IOWA.

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GIBSON, Printer.

UNITED STATES OF AMERICA,
Territory of Iowa, ss.

Pleas held before the honorable Charles Mason, chief justice, and Joseph Williams and Thomas S. Wilson, associate justices, composing the supreme court for Iowa Territory, at Iowa city, in said Territory, on the 26th day of January, A. D. 1846.

Writ of error to the judgment of the district court of Lee county.

JOSEPH WEBSTER, plaintiff in error,
against
HUGH T. REID, defendant in error.

Be it remembered, that heretofore, to wit, on the 22d day of May, A. D. 1845, the said plaintiff in error sued out of the clerk's office of the said supreme court the following writ of error, to wit:

Writ of error.

UNITED STATES OF AMERICA,
Territory of Iowa, ss.

To J. C. Walker, clerk of the district court of the county of Lee, greeting:

Whereas at a district court, begun and held at the West Point, in and for the county of Lee, on the first Monday of May, in the year of our Lord eighteen hundred and forty-five, a certain Hugh T. Reid, by the judgment of the said court, recovered against a certain Joseph Webster the sum of one cent damages in a certain action of right, and also his costs and charges by him about his suit in that behalf laid out and expended, whereof the said Joseph Webster is convict as it is said: And because in the record and proceedings, as also in the rendition of the said judgment, a manifest error hath happened, to the great damage of the said Joseph Webster, as in his complaint hath been stated—

Therefore, you are hereby commanded, that if the judgment aforesaid be therein given, then, under your seal, you do distinctly and openly send the record and proceedings aforesaid, with all things thereunto relating, to the supreme court for the Territory aforesaid, to be held at Iowa city on the first Monday in January next, together with this writ; that the record and proceedings aforesaid being inspected, the said supreme court may further cause to be done therein, for the correcting of that error, what of right, and according to the laws and customs of the land may be done.

Witness the honorable Charles Mason, chief justice of the supreme court, with the seal of said court hereunto affixed, at Iowa [SEAL.] city, this 22d day of May, 1845.

GEO. S. HAMPTON,
Clerk of the sup. court.

And afterwards, to wit, on the 5th day of January, 1846, the following transcript was filed herein, in answer to the said writ of error, to wit:

Transcript.

Pleas before the honorable Charles Mason, judge of the district court in and for the first judicial district in and for the Territory of Iowa.

District court for said county, October term, 1844. October 1, 1844.

TERRITORY OF IOWA, *Lee county, ss.*

Declaration.

HUGH T. REID
vs.
JOSEPH WEBSTER.

Hugh T. Reid claims against Joseph Webster a tract of land, with the appurtenances, lying in the county aforesaid, and described as follows, to wit, the northeast quarter of section twelve, in township sixty-seven north, and range five west, containing one hundred and sixty acres more or less; and thereupon the said Hugh T. Reid says that he has right to the immediate possession of said property, and to the ownership thereof in fee simple, and also to damages for its detention, and offers to prove that such is his right.

H. T. REID,
Attorney for himself.

Præcipe.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Action of right.

The clerk of the district court will issue a summons against Joseph Webster, returnable according to law.

H. T. REID.

October 1st, 1844.

Endorsed on the back thereof, filed October 1st, 1844.

J. C. WALKER, *Clerk.*

And afterwards, to wit, on the day last aforesaid, the clerk of said court issued the following summons, to wit:

Summons.

TERRITORY OF IOWA, *county of Lee, ss.*

The United States of America, to the sheriff of said county, greeting:

You are hereby commanded to summon Joseph Webster to appear before the district court of said county on the first day of the next term thereof, to answer unto Hugh T. Reid in an action of right for certain land, to wit, the northeast quarter of section twelve, in township sixty-eight north, and range five west, containing one hundred and sixty

acres, more or less, with the appurtenances, in said county, which the said Hugh T. Reid claims to be his right in fee simple, and of which he complains that the said Joseph Webster wrongfully withholds the possession. Hereof fail not, and have you then and there this writ.

Witness the honorable Charles Mason, judge of our said court, with the seal thereof hereunto annexed, at West Point, this first day of October, A. D. 1844. [SEAL.]

JOEL C. WALKER, *Clerk D. C.*
By J. G. WALKER, *Deputy.*

Sheriff's return.

On which the sheriff made the following return, to wit: "Served the within writ, by reading it to the within Joseph Webster, on this the 2d day of October, A. D. 1844.

JAS. L. ESTES, *Sheriff Lee co.*
By E. T. ESTES, *Deputy.*

And afterwards the following plea was filed, to wit:

Demurrer.

HUGH T. REID
vs.
JOSEPH WEBSTER.

And now comes defendant, and saith said declarationis not sufficient in law, &c.

DANIEL F. MILLER,
Defendant's att'y.

Joinder to demurrer.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Action of right.

And now comes the plaintiff, and says that his declaration is sufficient in law; therefore he prays judgment.

H. T. REID,
Attorney for himself.

Defendant's plea.

HUGH T. REID
vs.
JOSEPH WEBSTER.

And now comes said defendant, and saith that plaintiff is not entitled to possession, as stated in plaintiff's declaration, and of this he puts himself upon the country.

T. F. MILLS,
Attorney for Def't.

Afterwards, to wit, on the 19th day of October, A. D. 1844, the following plea was filed, to wit:

Defendant's plea.

TERRITORY OF IOWA, *Lee county, sct.*

District court of said county, October term, 1844.

Joseph Webster denies the right of Hugh T. Reid to the tract of land, with the appurtenances, and damages for the detention thereof, as set forth in his declaration, or to any part thereof; and hereupon he prays a jury to determine the truth of this plea.

MILLER, MILLS & COCHRAN,
For Defendant.

And afterwards, to wit, on the 12th day of May, A. D. 1845, the following proceedings were had, to wit:

HUGH T. REID
vs.
JOSEPH WEBSTER. } Action of right.

On this day came said plaintiff, by Walker, Browing, Starr, Reid, and Johnston; and the said defendant, by Hall, Miller, and Cochran, his attorneys.

Jury.

Thereupon came a jury, to wit: Eli Millard, John Box, Berry Wilcoxen, J. M. Alfred, William Perdew, William Stotts, William C. Evans, John B. Richey, John Delaplain, John Cassidy, and Drury Farley. There not being a full pannel, it was agreed to by the consent of parties that the eleven named persons should compose the pannel, who were empannelled and sworn well and truly to try, and true deliverance make between the said parties.

And afterwards, to wit, on the 16th day of May, A. D. 1845, the following proceedings were had, to wit:

HUGH T. REID
vs.
JOSEPH WEBSTER. } Action of right.

Verdict and judgment for plaintiff.

On this day came said plaintiff by his attorneys, and the said defendant by his attorneys; and thereupon came the jury, who were empannelled and sworn in this suit, and upon their oaths do say: "They find the right of immediate possession and ownership in fee simple to the land described in the plaintiff's declaration as follows, to wit, the north-east quarter of section number twelve, in township number sixty-seven north, and range number five west, containing one hundred and sixty acres, more or less, to be in the plaintiff, and assess his damage for the detention thereof at one cent.

It is therefore considered by the court here, that the said plaintiff be restored to his possession, and recover said property of said defendant, as well as the sum of one cent for his damages, and his costs in this behalf expended, and that a writ of possession and a writ of fieri facias issue thereupon.

Bill of exceptions, No. 1.

Defendant's exceptions, No. 1.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Action of right.

District court of Lee county, May term, 1845.

Be it known, that on the trial of this cause the plaintiff offered in evidence two judgments, rendered at the August term of the district court of Lee county, 1839, in words and figures following:

EDWARD JOHNSTON
vs.
OWNERS OF THE HALF-BREED LANDS, lying in Lee county, I. T. } In debt.

Now comes the auditor, appointed by the court to examine, adjust, and allow the account of the plaintiff in the above entitled cause, to wit, H. T. Reid, esq., and makes report that he finds the sum of one thousand two hundred and ninety dollars to be due from said defendants to said plaintiff, which report is accepted by the court. Whereupon it is ordered by the court, that the plaintiff recover of the defendants the sum of twelve hundred and ninety dollars, together with his costs of suit in this behalf expended.

DAVID BRIGHAM
vs.
THE OWNERS OF THE HALF-BREED LANDS, lying in the county of Lee. } In debt.

Now comes the auditor, appointed by the court to examine, adjust, and allow the account of the plaintiff in the above entitled cause, to wit, Oliver Weld, esq., and makes report that he finds the sum of eight hundred and eighteen dollars to be due from the said defendants to said plaintiff; which report is accepted by the court. Whereupon it is ordered by the court, that the plaintiff recover of the said defendants the sum of eight hundred and eighteen dollars, the amount stated in the auditor's report, and costs in his behalf expended."

This was the first evidence offered by the plaintiff to the jury. The defendant objected to the admissibility of the judgments, as being rendered without jurisdiction; but the court overruled the objections, and admitted the records, to which the defendant excepts, and prays the court to sign and seal this his first bill of exceptions, which is done at the time the same was taken on the trial.

CHARLES MASON, *Judge*. [SEAL.]

Bill of exceptions, No. 2.

Defendants' exceptions, No. 2.

H. T. Reid
vs.
Joseph Webster. } Right.

District court, May term, 1845.

Be it known that, on the trial of this cause, the plaintiff offered in evidence the following judgment, executions issued thereon, and the sheriff's return thereon endorsed, and also the following deed from Sheriff Stotts to the plaintiff in this cause, to wit:

Johnston vs. *Owners of Half-breed lands.—Judgment.*

Edward Johnston
vs.
Owners of Half-breed lands, lying in Lee county, Iowa Territory. } In Debt.

August term, 1839, (Thursday.)

Now comes the auditor, appointed by the court to examine, adjust, and allow the account of the plaintiff in the above entitled cause, to wit, H. T. Reid, esquire, and makes report that he finds the sum of twelve hundred and ninety dollars to be due from said defendants to the said plaintiff; which report is accepted by the court. Whereupon it is ordered by the court, that the plaintiff recover of the defendants the sum of twelve hundred and ninety dollars, together with his costs of suit in this behalf expended.

Brigham vs. *Owners of Half-breed lands.—Judgment.*

David Brigham
vs.
The owners of the Half-breed lands, lying in the county of Lee.

Now comes the auditor, appointed by the court to examine, adjust, and allow the account of the plaintiff in the above entitled cause, to wit, Oliver Weld, esq., and makes report that he finds the sum of eight hundred and eighteen dollars to be due from the said defendants to the said plaintiff; which report is accepted by the court. Whereupon it is ordered by the court, that the plaintiff recover of the said defendants the sum of eight hundred and eighteen dollars, the amount stated in the auditor's report, and costs in this behalf expended.

Johnston vs. *Owners of Half-breed lands.—Execution.*

Territory of Iowa, *Lee county*, ss.

The United States of America, to the sheriff of said county, greeting:

You are hereby commanded to cause to be made of the goods, chattels,

lands, and tenements, in your county, of the owners of the Half-breed lands in Lee county, the sum of twelve hundred and ninety dollars debt, and sixteen dollars and thirty cents, costs of suit; which, by the judgment of the district court for said county, at the August term thereof, A.D. 1839, Edward Johnston recovered against the said owner of the Half-breed lands in Lee county, with interest thereon from August 29, A. D. 1839, until paid. And that you cause to be made, as aforesaid, the further sum of one dollar and —— cents, costs of increase on said judgment, together with all the legal costs which may accrue by virtue of this writ. And that you have said sums of money before the clerk of said court within seventy days from this date, to render to the said Edward Johnston, and have you then and there this writ, with your doings thereon, and fail not at your peril.

Witness the honorable Charles Mason, judge of the said court, with the seal thereof hereunto affixed, at Fort Madison, this 26th day [L. S.] of November, 1841.

O. S. X. PECK,
Clerk of the district court.

Sheriff's return.

December 1st, 1841. Levied the within execution on the Half-breed Sac and Fox reservation in Lee county, I. T., commonly called the Half-breed tract; advertised same for sale for January 1st, 1842. January 1st, 1842, sold the above described tract of land, bought by H. T. Reid, for the sum of twenty-eight hundred and eighty-four dollars $\frac{66}{100}$; seventeen hundred and sixty-two dollars $\frac{66}{100}$ to be endorsed in full satisfaction of the within execution.

HAWKINS TAYLOR,
Sheriff Lee county.

Serving execution and advertising sale -	$2 00
Selling land and per centum - -	85 20
	$87 20

Brigham vs. *Owners of Half-breed lands.—Execution.*

TERRITORY OF IOWA, *Lee county, ss.*

The United States of America, to the sheriff of said county, greeting:

You are hereby commanded to cause to be made of the goods, chattels, lands, and tenements, in your county, of the owners of the Half-breed lands lying in Lee county, the sum of eight hundred and eighteen dollars debt, and thirteen dollars and forty-five cents costs of suit, which, by the judgment of the district court for said county, at the August term thereof, A. D. 1839, David Brigham recovered against the said owners of the Half-breed lands in Lee county, with interest thereon from August 30, A. D. 1839, until paid; and that you cause to be made, as aforesaid, the further sum of one dollar and —— cents, costs of increase

on said judgment, together with all other legal costs which may accrue by virtue of this writ, and that you have said sums of money before the clerk of said court, within seventy days from this date, to render to the said David Brigham; and have you then and there this writ, with your doings thereon; and fail not at your peril.

Witness the honorable Charles Mason, judge of our said court, with the seal thereof hereunto affixed, at Fort Madison, this 26th day [L. S.] of November, 1841.

O. S. X. PECK,
Clerk of district court.

Sheriff's return.

Levied the within execution on the Half-breed tract of land, situated between the Mississippi and Des Moines rivers, granted by treaty to the Half-breeds of the Sac and Fox tribes of Indians; advertised same for sale January 1st, 1842. January 1st, 1842, sold the above described tract of land, bought by Hugh T. Reid, for the sum of twenty-eight hundred and eighty-four dollars $\frac{66}{100}$. Eleven hundred and twenty-two dollars to be endorsed on this execution.

HAWKINS TAYLOR,
Sheriff Lee county.

Serving execution - - -	$1 00
Selling land, advertising, &c. -	2 50
Per centum - - -	56 80
	$59 30

Sheriff to Hugh T. Reid.—Deed.

This indenture, made this second day of January, A. D. eighteen hundred and forty-three, between William Stotts, sheriff of Lee county, in the Territory of Iowa, of the first part, and Hugh T. Reid, of the county and Territory aforesaid, of the second part, witnesseth: That whereas, by the consideration of the district court, in and for the said county of Lee, at the August term of said court, A. D. 1839, *eighteen hundred and thirty-nine*, holden at the town of Fort Madison, in the said county, Edward Johnston recovered a judgment against the owners of the Half-breed lands, lying in Lee county, for the sum of twelve hundred and ninety dollars, and costs of suit; upon which judgment a writ of execution issued from the said court, on the 26th day of November, A. D. 1841, directed to Hawkins Taylor, then sheriff of the county aforesaid. And whereas, also, by the consideration of the said district court, at the August term of said court, A. D. 1839, David Brigham recovered a judgment against the said owners of the Half-breed lands lying in Lee county, for the sum of eight hundred and eighteen dollars, and costs of suit; and upon which judgment a writ of execution issued from the said court, on the 26th day of November, A.

D. 1841, directed to Hawkins Taylor, then sheriff of the said county. And whereas, by virtue of the said several writs of execution, and in order to satisfy the same, the said Hawkins Taylor, then sheriff as aforesaid, did seize and levy upon the following described tract or parcel of land, of the owners of the Half-breed land lying in Lee county, to wit: All that tract of land lying between the Mississippi and Des Moines, and south of a line drawn from a point on the Des Moines river opposite the point where the northern boundary of the State of Missouri strikes the same, to the Mississippi, commonly known as the Half-breed lands lying in Lee county, and containing one hundred and nineteen thousand acres more or less; the said tract of land lying, being, and situate in the county of Lee and Territory of Iowa aforesaid. And whereas, afterwards, and in pursuance of such levy, by virtue of the said writs of execution, on the first day of January, 1842, the said Hawkins Taylor, then sheriff as aforesaid, having duly advertised the said above described premises, according to law, did sell the same at public outcry to the aforesaid Hugh T. Reid, who was the highest bidder and the purchaser at said sale for the sum of twenty-eight hundred and eighty-four dollars and sixty-six cents, which was the best price said premises would bring. Now, therefore, to convey the title and interest of the said owners of the Half-breed lands lying in Lee county in and to the above described premises, the said premises not having been redeemed, in accordance with the statute in such case made and provided, and the said Hawkins Taylor not having made a deed for the same, during his continuance in office, to the said Hugh T. Reid, the purchaser at said sale as aforesaid, this indenture further witnesseth, that I, William Stotts, present sheriff of the said county, and successor in office of the said Hawkins Taylor, for and in consideration of the sum of twenty-eight hundred and eighty-four dollars and sixty-six cents, to the said Hawkins Taylor, sheriff as aforesaid, in hand paid by the said Hugh T. Reid, the receipt whereof is hereby acknowledged, and by virtue of the authority and of the power vested in me, as sheriff as aforesaid, by the laws of the Territory of Iowa, have given, granted, bargained, sold, and conveyed, and by these presents do give, grant, bargain, sell, and convey, unto the saidHugh T. Reid, and to his heirs and assigns forever, the following above described premises, to wit: All that tract of land lying between the Mississippi and Des Moines rivers, and south of a line drawn from a point on the Des Moines river, opposite the point where the northern boundary of the State of Missouri strikes the same, to the Mississippi, commonly known as the Half-breed lands lying in Lee county, and containing one hundred and nineteen thousand acres, more or less; the said tract of land lying, being, and situate in the county of Lee and Territory of Iowa aforesaid, with all the right, interest, claim, and demand of the said owners of the Half-breed lands lying in Lee county, in, over, and to the same and every part and parcel thereof; to have and to hold all the above granted premises and appurtenances thereto belonging, or in anywise appertaining, to the said Hugh T. Reid, his heirs and assigns forever.

In testimony whereof I have hereunto set my hand and seal the day and year first aforesaid.

[L. S.] WM. STOTTS,
Sheriff Lee county.

Signed, sealed, and delivered in presence of Nathaniel Marsh.

TERRITORY OF IOWA, *Lee county, ss.*

Before me, the undersigned justice of the peace, in and for said county, appeared William Stotts, sheriff of the said county, known to me to be the identical person who executed the foregoing deed, and acknowledged the same to be his act and deed for the purposes therein expressed.

Given under my hand this 2d day of January, A. D. 1843.

JOSIAH CAWLES,
Justice of the peace.

Upon the back of which deed there is the following endorsement, to wit: Deed, William Stotts, sheriff of Lee county, to Hugh T. Reid. Filed for record January 2d, 1843, at 9 o'clock, A. M., and duly recorded the same day and date at 11 o'clock, A. M., in Deed book, vol. 3, pages 551 and '52.

HENRY H. O. NEIL,
Recorder deeds, L. C., I. T.

After which they introduced Samuel B. Ayers, as a witness who proved that the defendant Webster was in possession of the land described in the declaration of plaintiff, and that he had been in such possession since the year 1839 or '40. After which the plaintiff introduced a map, with the following certificates, (to wit:)

Certificate on plat of Half-breed lands.

SAINT LOUIS, *July 5th*, 1833.

The above map of the Half-breed Sac and Fox reservation is conformable to the field notes of the survey thereof, as executed by me in the year 1832 and 1833, in pursuance of my contract with William Clark, superintendent of Indian affairs, dated January 20th, 1832.

JENIFER T. SPRIGG,
Surveyor of the Half-breed Sac and Fox reservation.

GENERAL LAND OFFICE, *July 30th*, 1839.

I hereby certify, that the above is a true copy of a plat received at this office, from the office of Indian affairs, War Department, with the field books of the surveyor of the lands of the Half-breed Sac and Fox Indians.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Wash-
[L. S.] ington, on the day and year above written.

JAMES WHITCOMB,
Commissioner.

And it is agreed by the parties, that no objection shall be taken on account of its not being copied, and that the original, or a copy made by the clerk, shall be sufficient in this exception. After which, plaintiff introduced a witness who proved that he, witness, was a practical surveyor, and that he had traced the northern line of the Half-breed tract, and that it was correctly laid down on said map, and that the tract of land described in plaintiff's declaration, was included in survey and map, and that the Government of the United States in making the surveys on the north side of the line, had adopted and made *the* their surveys conform to it, and that the land in controversy lay within the boundaries of the tract commonly called the Half-breed land, in Lee county. Also an act of Congress, entitled, an act to repeal an act to direct the survey of the northern line of a reservation for the Half-breeds of Sac and Fox tribes of Indians, by the treaty of August, 1824, approved March 3d, 1843; which act was approved June 15th, 1844.

Also an act of the Territorial Legislature of Wisconsin, entitled, an act for the partition of the Half-breed land, and other purposes, approved January 16th, 1838.

Also, an act of the Legislature of Wisconsin, approved June 22d, 1838, entitled an act supplementary to an act, entitled an act for the partition of the Half-breed lands and other purposes.

Also, an act of the Iowa Territorial Legislature, entitled an act to repeal an act of the Wisconsin Legislature, entitled an act to partition the Half-breed lands, and for other purposes; and an act supplementary thereto, approved Jan. 22d, 1836, which act was approved January 25th, 1839.

It is agreed that the above laws may be inserted in this bill of exceptions by the clerk, and on failure that the laws shall be considered as a part of this bill of exceptions and referred to from the statute; this was all the evidence submitted to the jury by the plaintiff, and the plaintiff rested his case. The defendant then moved the court to enter a non-suit against the plaintiff, which motion was overruled by the court; to which ruling and decision the defendant excepts, and prays, &c.

CHARLES MASON, *Judge*. [SEAL.]

The acts referred to in the foregoing bill of exceptions, are in the words and figures following:

An act for the partition of the Half-breed lands, and for other purposes.

Whereas, it is expedient in order to the settlement of that tract of land lying between the Mississippi and Des Moins rivers, commonly called the *the* "Half-breed lands," which was reserved for the Half-breeds of the Sacs and Fox tribes of Indians, by treaty made at Washington city, between the United States and those tribes, on the fourth of August, 1824, which was released to said Half-breeds, with power to convey their rights, &c., by act of Congress, approved the 30th of June, 1834, that the validity of the titles of the claimants should be determined, and partition of said lands among those having claims should

be *determined and partition of said lands among those having claims should be* made, or a sale thereof for the benefit of such valid claimants; now, therefore—

Sec. 1. Be it enacted by the Council and House of Representatives of the Territory of Wisconsin, That all persons claiming any interest in said lands, under said treaty and act of Congress, are hereby required, within one year from the passage hereof, to file with the clerk of the district court, of the county of Lee, Wisconsin Territory, a written notice of their respective claims, designating the Half-breed under which they respectively claim, and the extent of their claims; which notice shall be accompanied with a true copy of all the title papers and deeds relating to the rights therein set forth.

Sec. 2. The following named persons, to wit, Edward Johnston, Thomas S. Wilson, and David Brigham, are hereby appointed commissioners for the purpose of taking and receiving the testimony concerning the validity of claims presented and filed, each of whom shall receive six dollars per diem, for each day actually engaged in the discharge of his duties.

Sec. 3. The said commissioners, before entering upon their duties shall take an oath well and faithfully to discharge the same, and on application of any party interested, the court may rule said commissioners to report their proceedings, and upon proof of neglect of duty, or misconduct, the judge of said court may remove any of the said commissioners; in which case, as on the occasion of the death or resignation of said commissioners, or any of them, or in case of a vacancy in said board from any other cause, the Governor of the Territory shall appoint others to supply the vacancy, who shall be qualified as aforesaid.

Sec. 4. The said commissioners shall commence their duties at the town of Montrose, in Lee county, Wisconsin Territory, on the first Monday in May, 1838, at which time and place they shall proceed to investigate the validity of said claims, in the order in which they have been filed with the clerk of the district court of said county, upon whatever legal evidence, written or oral, that may be produced for and against the same, and the commissioners shall have the testimony so taken reduced to writing; and the clerk of the said district court is hereby required to deliver to the said commissioners all notices, copies of title papers, and documents filed with him in pursuance of the first section of this act.

Sec. 5. The said commissioners shall have authority to adjourn from time to time, as they or a majority of them shall deem proper and expedient, and as soon as the testimony for and against the claims presented shall have been had and obtained so as to enable the commissioners to report, they shall proceed to make up a report in writing to the district court of the county of Lee, stating therein the names and number of the Half-breeds originally entitled to the said lands, under the treaty and act of Congress before mentioned; the names of the owners at the time said report shall be made, with the proportions to which they are respectively entitled, and the Half-breed under which each of

And it is agreed by the parties, that no objection shall be taken on account of its not being copied, and that the original, or a copy made by the clerk, shall be sufficient in this exception. After which, plaintiff introduced a witness who proved that he, witness, was a practical surveyor, and that he had traced the northern line of the Half-breed tract, and that it was correctly laid down on said map, and that the tract of land described in plaintiff's declaration, was included in survey and map, and that the Government of the United States in making the surveys on the north side of the line, had adopted and made *the* their surveys conform to it, and that the land in controversy lay within the boundaries of the tract commonly called the Half-breed land, in Lee county. Also an act of Congress, entitled, an act to repeal an act to direct the survey of the northern line of a reservation for the Half-breeds of Sac and Fox tribes of Indians, by the treaty of August, 1824, approved March 3d, 1843; which act was approved June 15th, 1844.

Also an act of the Territorial Legislature of Wisconsin, entitled, an act for the partition of the Half-breed land, and other purposes, approved January 16th, 1838.

Also, an act of the Legislature of Wisconsin, approved June 22d, 1838, entitled an act supplementary to an act, entitled an act for the partition of the Half-breed lands and other purposes.

Also, an act of the Iowa Territorial Legislature, entitled an act to repeal an act of the Wisconsin Legislature, entitled an act to partition the Half-breed lands, and for other purposes; and an act supplementary thereto, approved Jan. 22d, 1836, which act was approved January 25th, 1839.

It is agreed that the above laws may be inserted in this bill of exceptions by the clerk, and on failure that the laws shall be considered as a part of this bill of exceptions and referred to from the statute; this was all the evidence submitted to the jury by the plaintiff, and the plaintiff rested his case. The defendant then moved the court to enter a non-suit against the plaintiff, which motion was overruled by the court; to which ruling and decision the defendant excepts, and prays, &c.

CHARLES MASON, *Judge*. [SEAL.]

The acts referred to in the foregoing bill of exceptions, are in the words and figures following:

An act for the partition of the Half-breed lands, and for other purposes.

Whereas, it is expedient in order to the settlement of that tract of land lying between the Mississippi and Des Moins rivers, commonly called the *the* "Half-breed lands," which was reserved for the Half-breeds of the Sacs and Fox tribes of Indians, by treaty made at Washington city, between the United States and those tribes, on the fourth of August, 1824, which was released to said Half-breeds, with power to convey their rights, &c., by act of Congress, approved the 30th of June, 1834, that the validity of the titles of the claimants should be determined, and partition of said lands among those having claims should

be *determined and partition of said lands among those having claims should be* made, or a sale thereof for the benefit of such valid claimants; now, therefore—

Sec. 1. Be it enacted by the Council and House of Representatives of the Territory of Wisconsin, That all persons claiming any interest in said lands, under said treaty and act of Congress, are hereby required, within one year from the passage hereof, to file with the clerk of the district court, of the county of Lee, Wisconsin Territory, a written notice of their respective claims, designating the Half-breed under which they respectively claim, and the extent of their claims; which notice shall be accompanied with a true copy of all the title papers and deeds relating to the rights therein set forth.

Sec. 2. The following named persons, to wit, Edward Johnston, Thomas S. Wilson, and David Brigham, are hereby appointed commissioners for the purpose of taking and receiving the testimony concerning the validity of claims presented and filed, each of whom shall receive six dollars per diem, for each day actually engaged in the discharge of his duties.

Sec. 3. The said commissioners, before entering upon their duties shall take an oath well and faithfully to discharge the same, and on application of any party interested, the court may rule said commissioners to report their proceedings, and upon proof of neglect of duty, or misconduct, the judge of said court may remove any of the said commissioners; in which case, as on the occasion of the death or resignation of said commissioners, or any of them, or in case of a vacancy in said board from any other cause, the Governor of the Territory shall appoint others to supply the vacancy, who shall be qualified as aforesaid.

Sec. 4. The said commissioners shall commence their duties at the town of Montrose, in Lee county, Wisconsin Territory, on the first Monday in May, 1838, at which time and place they shall proceed to investigate the validity of said claims, in the order in which they have been filed with the clerk of the district court of said county, upon whatever legal evidence, written or oral, that may be produced for and against the same, and the commissioners shall have the testimony so taken reduced to writing; and the clerk of the said district court is hereby required to deliver to the said commissioners all notices, copies of title papers, and documents filed with him in pursuance of the first section of this act.

Sec. 5. The said commissioners shall have authority to adjourn from time to time, as they or a majority of them shall deem proper and expedient, and as soon as the testimony for and against the claims presented shall have been had and obtained so as to enable the commissioners to report, they shall proceed to make up a report in writing to the district court of the county of Lee, stating therein the names and number of the Half-breeds originally entitled to the said lands, under the treaty and act of Congress before mentioned; the names of the owners at the time said report shall be made, with the proportions to which they are respectively entitled, and the Half-breed under which each of

the said owners claims his or her right; together with all the evidence upon which these facts and opinions are founded; and said report, when filed, shall be open to the inspection of any person interested.

Sec. 6. The said commissioners shall have power and authority to administer oaths and take affidavits, and to the same legal effect as the same may by the usages of law be administered or taken by the judge of the said district court, in all matters relating to, or touching in any wise the proceedings to be had before said commissioners; and they are hereby authorized to issue commissions for taking depositions of witnesses residing out of the Territory, to be received in evidence before the said commissioners, in the same manner as the district court of the said county of Lee may or can by law now do.

Sec. 7. The said commissioners shall have authority to issue subpœnas and other process, to compel the attendance of witnesses in the same manner as the district court of any of the counties of this Territory may lawfully do.

Sec. 8. The judge of the district court, of the county of Lee, shall give judgment at the next term of said court, immediately succeeding the filing of the report of said commissioners, in favor of the claimants for the amount they may appear to be respectively entitled [to] according to said report; unless, on or before the fourth day of said term exceptions shall be filed against said report, or any part thereof: Provided, that judgment shall not be entered at any term of the said court, unless said report and the evidence supporting the same, shall have been filed with the clerk of the district court of the county of Lee, and public notice given of such filing at least sixty days before the first day of said term.

Sec. 9. If exceptions should be filed by any person interested within the time appointed, the decision of the question or questions embraced in such exceptions, shall be made by the said district court in the same manner as if a petition for partition had been duly made to the said court, and notice of service duly proved, under the general provisions of the act of the Legislative Council of Michigan, passed the 12th day of April, 1827, entitled "An act to provide for the partition of lands;" and the same proceedings shall be had with regard to trial, judgment, and removal by certiorari, or writ of error, as if the proceedings had been regularly commenced in the said court.

Sec. 10. The judge of the district court of the county of Lee is hereby authorized to hold a special term or terms, at such time or times as he may see fit to adjourn for the purpose of hearing and deciding upon any question arising from exceptions filed to the report of the said commissioners.

Sec. 11. All persons claiming any interest in said lands, under said treaty and act of Congress, who shall not file their claims as herein required, shall be forever barred from setting up any right in said lands, or in the proceeds of the sale thereof. Provided, That should any claimant owning a portion of the right of any original Half-breed, establish his claim under the proceedings herein authorized, and the resi-

due of said right remain unrepresented before the commissioners and the court, that said right of such Half breed shall be considered as valid, and the portion of the sales due and coming to such unrepresented interest shall be retained by the court to be invested under its direction in some safe State stock, bearing interest, and as required by the fifth section of this act. And at the expiration of that time, the balance, if any should remain, shall be paid into the treasury of the Territory or State, in which the said Half-breed tract may at that time be situated, to be held by the said State or Territory in trust for such absent owners as may at any time hereafter establish their claims, to be paid to the party or parties establishing the right thereto before the said court, within three years after the filing of the report of said commissioners.

Sec. 12. Immediately after judgment shall have been given as aforesaid, upon all the claims presented, the following named persons, to wit, John Wash, of St. Louis; Jeremiah Smith and Antoine Leclaire, of Wisconsin; Samuel Marsh, of New York; and Isaac Galland, of Illinois, or a majority of them, are hereby authorized to proceed to make sale of said lands, from time to time, according to the judgment or order of the court, and to make surveys and do all things under the direction of the court, necessary or proper for making such sales as they shall report their proceedings from time to time to the court, and shall on receipt of the consideration of such sales, and on ratification of the report of them, make, execute, acknowledge, and deliver to the purchasers proper deeds for the lands purchased, which shall be effected to vest in the respective purchasers the absolute [title] in fee simple, in severalty, of the lands so sold and conveyed, free and clear of all right and claim of all persons under said treaty and act of Congress.

Sec. 13. The said court is authorized to cause the said lands, or any part of them, to be sold by said commissioners of sale, appointed by the preceding section, at such times and places, on such notices, and in such quantities, as the court in its discretion may appoint; and may cause surveys to be made if necessary, and towns to be laid out, and &c., provided, that sales shall (except as is provided in section 17,) be made at public vendue, and for so much cash down as the court may deem reasonable, in order to raise a fund to pay all the expenses of the proceedings, sales, and expenses herein authorized and required, and the balance on a reasonable credit. And the said court may ratify or disapprove of any report or proceedings of said commissioners, and set the same aside, and order such further proceeding as may seem reasonable, and for the advancement of justice, upon exceptions filed, and good cause shown by some party interested, at the time at which said commissioners may make report on the matters excepted to.

Sec. 14. If any purchaser at such sale shall fail to comply with the terms of the sale, by not making the cash payment, or giving the security required, said sale shall be utterly null, and the commissioners of sale may immediately put up the lands again for sale to the highest bidder; and if there be a loss on such second sale, the non-complying purchasers who has caused such loss shall be responsible therefor, and

may be proceeded against by the commissioners of sale in their name for the difference, in any court having jurisdiction.

Sec. 15. The said commissioners of sale shall settle with, and account to, the claimants for the proceeds of said sales when thereunto required, either by a general or special order of the court; and in case any claimant is a purchaser at public sale, his receipt for the amount of his purchases (except the cash payment which is required to be made by the claimant, as well as others) shall be a good voucher to the commissioners: Provided, the same shall not exceed, when added the cash payment, the amount of such claimant's interest in the sales made.

Sec. 16. The costs and expenses of proceedings shall be paid by said commissioners out of the proceeds of said sales, comprehending the costs of necessary surveys, compensation to the commissioners, and their fees of the sheriff, clerk of the court, witnesses, &c.; and the court is authorized to audit and allow any reasonable costs, charges, and expenses, and that the clerk of said court, sheriffs, witnesses, and other officers, shall be paid the same fees for services required hereunder, as he or they is or are allowed in other similar or like cases; and if any person, being a claimant or otherwise, shall make advances of any such fees and charges, the same shall be refunded to him: Provided, however, that nothing herein contained shall be so construed as to entitle any unsuccessful claimant to costs.

Sec. 17. It shall be lawful for persons holding possession of lands, or residing on particular portions of said "Half-breed lands," at the time of the passage of this act, (such persons being rightful owners of an individual interest in the said "Half-breed tract" at the time of the passage of this act,) to file notice of the situation, extent, and boundaries of the land so occupied or possessed by them, as is provided for in the first section of this act, with an affidavit thereof, and of the improvements thereon. The commissioners authorized to be appointed by the second section of this act shall then, either upon the examination of witnesses or otherwise, make a fair valuation and appraisement of the said lands so occupied and possessed, and of the improvements thereon; and upon confirmation thereof by the said court, the commissioners of sale are hereby authorized and required to execute and deliver to the said persons a good and valid conveyance for the portions which they may respectively occupy or possess, upon their complying with the terms and conditions of sale as established [by] the commissioners and the said court, within thirty days after the said valuation may be confirmed by the said court; and upon the said persons failing to comply with the terms and conditions as above specified within the time limited, the commissioners shall proceed to sell the same as other lands are authorized to be sold by this act, at public sale, to the highest bidder; reserving however to the said persons the valuation of the said improvements thereon, if the proceeds of the said lands should amount to the valuation so put upon the improvements, and if not, then the whole amount of such sale shall be reserved for the payment of said improvements, but no more shall be paid therefor.

Sec. 18. The jurisdiction of the said court in the matters herein above referred to it, shall be exclusive, and no proceeding shall be instituted or sustained in that or any other court, either at law or in equity, under the general law relating to the partition of lands, for the purpose of effecting a partition or sale of the said lands; it being understood, however, that the provisions of the general law relating to the partition of lands shall be extended over the subject and parties provided for in this act, so far as the same may be applicable, and aid in the furtherance of objects of the present act. And the guardians of all minors and persons of unsound mind, appointed according to law, shall be, and are hereby, authorized in behalf of their respective wards, to do and perform any matter or thing respecting the division and sale of any lands, tenements, and hereditaments as herein directed, which shall be binding on such ward, and deemed as valid to every purpose, as if the same had been done by such wards after their disabilities had been removed.

Sec. 19. When any legal tax or levy shall be assessed, or legally payable out of said lands, or any part thereof being unsold, it shall be lawful for any person to advance the amount thereof to the proper collector, who shall thereupon deliver to such person a certificate therefor, specifying the amount of the tax, the property on which assessed, and certify that said sum is to bear interest from date till paid, at the rate of eight per centum per annum, which sum shall have that rate of interest from that date till paid, in favor of such person, and his representatives or assigns; which said certificates shall be paid when presented to said commissioners, out of the money received by said sales, and such certificate shall be a lien upon the land until payment thereof.

Sec. 20. Any person interested may commence suit in any court having jurisdiction, against any trespasser or trespassers on said lands, or any part thereof, in the name of the owners of the Sac and Fox Half-breed lands, to recover damages for such trespasses, and prosecute the same to a recovery on execution, and the amount recovered shall belong to the person so commencing and prosecuting the suit, who shall be responsible for the costs; and it shall not be necessary to specify in such suit the names of said owners as plaintiffs; but in other respects such suits should be conducted as similar suits in other cases, and damages assessed and recovered on the same principles: Provided, that if said commissioners of sale shall cause suits to be *presented*, any expenses on their part may be paid out of the proceeds of said sales. And provided, that no such suits shall be brought for a trespass committed on any part of said land after the same has been sold and conveyed by the commissioners.

Sec. 21. The said commissioners of sale, before entering upon their duties, shall take an oath faithfully to discharge their duties as commissioners, and shall give bond and security to be approved of [by] the judge of the district court of the said county of Lee, in such sum as the judge shall deem reasonable for the faithful discharge of their duty under this act, and for accounting and paying over the proceeds of any sales made

agreebly to the provisions of this act; and on application of any party interested, the court may rule the said commissioners, or any of them, to give other securities, or in a larger amount; and upon proof of neglect of duty or misconduct, or upon failure to give the requisite security, the judge of the said court may remove any of said commissioners; in which case, as on the occasion of the death or resignation of said commissioners, or any of them, or in case of a vacancy in said board from any other cause, the judge shall appoint others to supply the vacancy, who shall be qualified and give bond as aforesaid.

Sec. 22. If any person interested in said property should hold their interest therein as joint tenants or trustees for the use of any other person or persons, it shall and may be lawful for the said court to enter judgment or decree in favor of such trustee, for the amount of interest to which they may be jointly entitled in that character, and to appropriate the proceeds of the sales of the lands of said trustees in accordance with said judgment or decree; first paying, however, the debts which may be owing to any person or persons, contracted by the said trustees, or either of them, or by the cestui que trust, or either of them, in the purchase of the interest, or any part thereof, adjudged or decreed to the said trustees out of the share of the money which said trustees would be entitled to receive from proceeds of sale.

Sec. 23. It shall be the duty of the secretary of the Territory to have an attested copy of this act published in two months after the passage thereof, in a newspaper published in each of the following places, to wit: Burlington, Wisconsin Territory; St. Louis and Liberty, Missouri; Vandalia, Illinois, and Alton, Illinois, once a week for three months successively; affidavits of which fact shall be filed among the proceedings of said court, and the expenses of said printing shall be paid out of the proceeds of the sales of said lands as other expenses are paid.

Sec. 24. Nothing in this act shall be so construed as to give any power or authority to any of the commissioners, appointed under this act, to exercise any authority over any lands, excepting those included within the line now known and designated as the Half-breed lands, and which terminate on the Mississippi river, near the town of Fort Madison.

Approved January 16th, 1838.

An act supplementary to an act entitled an act for the partition of the Half-breed lands, and for other purposes.

Sec. 1. Be it enacted by the Council and House of Representatives of the Territory of Wisconsin, That the commissioners of sale, appointed by the twelfth section of the act to which this is a supplement, or a majority of them, and their successors in office, or a majority of them, may at any time apply by petition to the judge of the district court of the county of Lee, in term time, or in vacation, for the sale of portions of the said Half-breed tract for the purpose of paying the expenses of the commissioners, and expose at public sale, according to the provisions of the act, such portion of said tract, to be designated by his order, as may

seem to be required for the purpose of defraying such expenees; and the said commissioners are hereby invested with powers, with regard to the lands to be sold as aforesaid, as are given them generally by the provisions of said act.

Sec. 2. Before any claim shall be examined by the commissioners appointed under the said recited act, the claimant, his agent, or attorney, shall enter into a bond, in a penalty to be prescribed by the clerk of the district court of Lee county, conditional for the payment of all costs that may accrue in consequence of said claim being made, in case said claim should be unsuccessful; and non-resident claimants shall give one or more good securities, to be included in their bond, and to be approved by the said clerk; said bonds to be made payable to the clerk of the district court of the county of Lee aforesaid.

Sec. 3. That when any witness, necessary in the investigation of any Half-breed claim, depending before the commissioners appointed under the second section of the above recited act, shall live within the Territory, and at a greater distance than fifty miles from Montrose, in Lee county, or in going out of the Territory before the time of the investigation of said claim, or by reason of age, sickness, or other bodily infirmity, is rendered incapable of appearing before said commissioners in that cause, any justice of the peace of this Territory shall, within his proper county, be, and hereby is, empowered to take the deposition of such witnesses, and transmit the same to the commissioners aforesaid: Provided, that notice by the party requiring such deposition be first made out and published for five successive weeks, before the time of taking of such depositions, in some newspaper published in the county where the Half-breed lands lie, if there be any paper published in said county, if not, then in some paper published in the nearest county thereto in the Territory; in which notice shall be specified the name or names of such witness or witnesses, and the time [and] place of taking such deposition, so that other parties interested may attend at the taking of the same, and cross examine such witness or witnesses if they think proper.

Sec. 4. That the figures 1824, in the eighth line of the ninth section of the act of which this is a supplement, be stricken out, and the figures 1827 inserted in lieu thereof.

Approved June 22d, 1838.

Half-breed tract.

An act to repeal an act of the Wisconsin legislature, entitled an act for the partition of the Half-breed lands and other purposes, and an act supplementary thereto, approved June 23d, 1838.

Sec. 1. Be it enacted by the Council and House of Representatives of the Territory of Iowa, That an act entitled "an act for the partition of the Half-breed lands, and for other purposes," and an act supplementary thereto, approved June 23d, 1838, be and the same are hereby repealed.

Sec. 2. That the several commissioners appointed by and under that act to sit and take testimony, may immediately, or as soon as convenient, commence actions before the district court of Lee county, for their several accounts against the owners of the said "Half-breed lands," and give eight weeks' notice in the Iowa Territorial Gazette, to said owners of such suits; and the judge of said district court, upon the trial of said suits before it at its next term shall, if said accounts are deemed correct, order judgment for the amount and costs to be entered up against said owners, and said judgment shall be a lien on said lands and a right of redemption thereto; said judgment, when entered, shall draw interest at the rate of twelve per cent. per annum.

Sec. 3. The words "owners of the Half-breed lands lying in Lee county," shall be a sufficient designation and specification of the defendants in said suits.

Sec. 4. All the expenses, necessarily incurred by said commissioners in the discharge of their duties under the above named acts, shall be included in their accounts.

Sec. 5. The trial of said suit or suits shall be before the court, and not a jury; and this act shall receive a liberal construction, such as will carry out the spirit and intention thereof.

Approved, January 25, 1839.

An act to repeal an act entitled "An act directing the survey of the northern line of the reservation for the Half-breeds of the Sac and Fox tribes of Indians, by the treaty of August, one thousand eight hundred and twenty-four." Approved March 3d, one thousand eight hundred and forty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "an act directing the survey of the northern line of the reservation for the Half-breeds of the Sac and Fox tribes of Indians, by the treaty of August, one thousand eight hundred and twenty-four, approved March third, one thousand eight hundred and forty-three, be and the same is hereby repealed.

Sec. 2. And be it further enacted, That the northern line of said reservation, as run and marked by Jenifer T. Sprigg, in the year one thousand eight hundred and thirty-three, under contract with William Clark, Superintendent of Indian Affairs, be and the same is hereby ratified, approved, and established as the correct northern boundary of said reservation.

Approved June 15th, 1844.

Bill of exceptions, No. 3.—Defendant's exceptions, No. 3.

In the district court.

HUGH T. REID vs. JOSEPH WEBSTER. } Right.

Be it known, that on the trial of this cause, after the plaintiff had

closed his evidence, and defendant had moved the court for a nonsuit, as stated in a bill of exceptions numbered two in this cause, the defendant offered to prove to the jury that the judgments, executions, sheriff's sale, and sheriff's deed, constituting the evidence introduced by plaintiff, was all procured by fraud by said plaintiff and others, and that the whole title of plaintiff is based upon fraud and fiction; to the introduction of which evidence the defendant objected, and the court sustained the exception, and ruled that such evidence should not be admitted; to which defendant excepts, and prays the court to sign and seal their bill of exceptions.

CHARLES MASON, *Judge*. [SEAL.]

Bill of exceptions, No. 4.—Defendant's exceptions, No. 4.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Right.

Be it known that, on the trial of this cause, the defendant introduced witnesses to the court as follows, to wit: Theophilus Bullard said he saw Na-ma-ca-pas, one or two years before the deed was executed; he was in company of a number of Indians and several white persons, at Montrose, within the limits of the Half-breed tract; he then was said to be a Half-breed of the Sac and Fox nations of Indians; I think they called him a Sac Half-breed. My conversation on that day was principally with the Knapps. I could not understand the language of the Indians. There was talk of purchasing his claim to the Half-breed land by the Knapps on that day; the Knapps lived at Fort Madison, about ten miles from Montrose, and had been trading with the Indians, and appeared to be acquainted with them. They (the Knapps) understood the Indian language enough to converse with them. At another time this same Half-breed was at Fort Madison with several Indians, *whom* they sold a claim to the Half-breed lands to Knapps. I took the acknowledgment of the deed from said Na-ma-ta-pas to John Bond, on the 3d March, 1837. At that time I asked several—Mr. McBride, Stephen Burtis; they had married persons reported to be Half-breeds of that tribe of Indians, and resided on the Half-breed tract; talked the language, and appeared to be intimate with the Indians; they said he was a Half-breed of the Sac portion of the Sac and Fox Indians. John Knapp was there, and several other white people. I made inquiry through an interpreter, who I swore as to his being a Half-breed, and interrogated the several Indians—Keokuk, one of the chiefs, and one or two others. I swore the Indians, and they stated that he, Na-ma-ta-pas was a Half-breed of their tribe; that his father was a Frenchman and his mother a squaw of that tribe; they gave the name of the father, but I have forgotten what it was. Since that time I saw Antoine Lee Claire and an old Frenchman. Lee Claire was an old trader with the Sac and Fox Indians; they both told me that Na-ma ta-pas was a Half-breed of the Sac and Fox nations.

I saw Labaum; he said he believed the claim was a good claim, but did not know certainly. I made all the inquiry I could, and never heard to the contrary that said Na ma ta-pas was a Half-breed of the Sac and Fox Indians; his appearance indicated a Half-breed; he was a middling dark for a Half-breed; his nose looked like a white man, and from his appearance I believe that he was a Half-breed; he was not as dark as a full blood Indian, and could be readily distinguished from one. I think he was thirty years of age; he lived with and dressed like the Indians of the Sac and Fox tribes. The Mr. Knapps and Mr. Burtis are all dead at this time; Na-ma-ta-pas appeared to speak the language of the Sac and Fox tribes.

Dr. Galland has resided near and on the Half-breed tract of land, in Lee county, since April, 1829. At that time the tract was in possession of the Half-breeds; Horace Blouden was one; he has since died; there were several others who lived on the tract at that time. The entire tract was under the superintendence of the Indian department of the General Government of the United States. Some of the Half-breeds have since that time removed from the tract; some died, and two or more reside on the tract at this time. The tract is now settled with white citizens. The Sac and Fox Indians, at the time I came here (1829) owned and occupied the country north and west of the Half-breed tract, between the Des Moines and Mississippi rivers. The Sac and Fox Indians now occupy a tract or district of country west of the organized portion of the Territory of Iowa, near the Raccoon fork of the Des Moines river. Mr. McBride is now dead; he married a quarter blood Sac or Fox Indian. McBride resided in the Indian country with the Indians; Mr. Burtis resided on the Half-breed lands in 1836 or before; Mr. Burtis is also dead.

After the above evidence was introduced, the defendant offered in evidence a deed executed as therein described, and no objection was made to the execution of the deed; which deed is in the words following, to wit:

Na-ma-tau-pas to John Bond.—Deed

Know all men by these presents, that I, Na-ma-tau-pas, a Half-breed of the Sac and Fox nations of Indians, for and in consideration of the sum of six hundred dollars, lawful money of the United States, to me paid by John Bond, the receipt whereof I do hereby acknowledge, have granted, bargained, and sold, and quit claimed, and by these presents do bargain, and sell, and quit claim, unto the said John Bond, and his heirs and assigns, forever, all my right, title, claim, and interest in and to that certain tract of country, lying and being between the Mississippi and Des Moines rivers, and known as the Half-breed claim or reservation, individual right, or estate, whereas I am entitled to by birth right, by the chiefs and head men of the Sac and Fox nations of Indians, by treaty held at the city of Washington of 1824, in favor of us for the only use [and] benefit, whereof gift, donation, or reservation was approved of the 30th day of June, 1834.

To have and to hold all the undivided right [and] interest in the above said land to the *same* John Bond, and to his heirs and assigns, forever; all my undivided part in and to all improvements, belonging or any wise appertaining *that* to the said premises.

In witness whereof, the said party of the first part have hereunto set his hand and affixed his seal, the 3d day of March, 1837.

his
NA-MA-TAU-PAS, X [SEAL.]
mark.

Signed, sealed, and delivered, in presence of—
THEOPHILUS BULLARD,
BENJAMIN SCAMON.

TERRITORY OF WISCONSIN,
County of Des Moines.

I, Theophilus Bullard, a justice of the peace of said county, do hereby certify, that Na-ma-tau-pas, whose signature appears to the foregoing deed of conveyance, and who *are* personally known to me to be the identical person who signed the same this day, appeared before me, and severally acknowledged that he had signed, sealed, and delivered the same as his free act and deed for the uses and purposes therein expressed.

THEOPHILUS BULLARD, *J. P.* [SEAL.]

We, the chiefs and headmen of the Sac and Fox nations of Indians, do hereby certify, that Na-ma-tau-pas is a Half-breed of the Sac and Fox tribes of Indians, and are entitled to a full share of the land set apart for the Half-breeds for the Sac and Fox tribes of Indians, at a treaty held at the city of Washington in the year 1824.

KEOKUK, his X mark.
PENOSCE, his X mark.

THEOPHILUS BULLARD.

This day personally appeared before me, Theophilus Bullard, J. P., the above signed chiefs, and after being duly sworn, deposed and saith, *threw* their sworn interpreter, Nathan Harris, that Na-ma-tau-pas is a Half-breed of the Sac and Fox nation, and is entitled to a full share of the above described land.

THEOPHILUS BULLARD, *J. P.*

Sworn to and subscribed before me—
THEOPHILUS BULLARD,
BENJAMIN SCAMON.

Endorsed.—Received for record at 9 o'clock, a. m., of August 14th, 1837, and duly recorded of the 11th of the same day.

John Bond to Theophilus Bullard.—Deed.

This indenture, made the twentieth day of March, in the year of our Lord one thousand eight hundred and thirty-seven, between John

Bond, of [the] county of Van Buren, and Territory of Wisconsin, of the first party, and Theophilus Bullard, of the county of Lee, and Territory aforesaid, of the second part, witnesseth: that the said party of the first part, for and in consideration of the sum of eight hundred dollors, lawful money of the United States of America, to him in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, and remised, released, conveyed, and confirmed, and by these presents doth grant, bargain, sell, alien, remise, convey, and confirm, unto the said party of the second part, and to his heirs and assigns, forever, all my right, title, claim, and interest, to one undivided share in that certain tract of country, lying and being between the Mississippi and Des Moines rivers, known as the Half-breed claim or reservation, it being the claim belonging to Na-ma-tau-pas, and conveyed by him to the said Bond, on the 3d day of March, 1837, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, and to the above described premises, and every part and parcel thereof, with the appurtenances.

To have and to hold the above granted and described premises, with the appurtenances, unto the said party of the second part, his heirs and assigns, to his and their own proper use and behoof, forever.

And the said John Bond and heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said party of the first part, his heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant, and by these presents forever defend.

In witness whereof the said party of the first part hath hereunto set his hand and seal the day and year first above written.

JOHN BOND. [SEAL.]

Sealed and delivered in the presence of—

SAMUEL C. REED,
WILLIAM WELCH.

TERRITORY OF WISCONSIN,
County of Van Buren, ss.

Be it remembered, that on the 21st day of March, 1838, personally came before me, Samuel C. Reed, a justice of the peace in and for said county, John Bond, whose name is subscribed to the foregoing instrument in writing, and acknowledged the same to be his act and deed for the purposes therein mentioned.

Given under my hand and seal at Sugar Grove, the day and year above written.

SAMUEL C. REED, *J. P. C. W. T.*

TERRITORY OF WISCONSIN,
County of Van Buren, ss.

I, H. G. Stewart, clerk of the district court in and for said county, do hereby certify, that Samuel C. Reed, whose name appears to the foregoing certificate of acknowledgment, is an acting justice of the peace in and for said county, and that the signature "Samuel C. Reed," is genuine.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of the district court at Farmington, this 21st day of March, A. D. 1838.

H. G. STEWART, *C. D. C. V. C. W. T.*

Endorsed as follows, to wit: Received for record April 27th, 1838, at 4 o'clock, p. m., and recorded April 13th, 1838.

Theophilus Bullard to Joseph Webster.—Deed.

This indenture, made and entered into this the seventh day of April, in the year of our Lord one thousand eight hundred and thirty-eight, between Theophilus Bullard and Lucy, his wife, of Lee county, and Territory of Wisconsin, of the first part, and Joseph Webster, of the town of Fort Madison, and county and territory aforesaid, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of twelve hundred dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, remised, released, conveyed, and confirmed, and by these presents do grant, bargain, sell, alien, remise, release, convey, and confirm, unto the said party of the second part, and to his heirs and assigns forever, all their right, title, claim, and interest (to one undivided share) in that certain tract or claim of land, lying and being situated [between] the Mississippi and Des Moines rivers, and known and designated as the Half-breed tract or reservation, it being the claim belonging to Na-ma-tau-pas, and conveyed by him to one certain John Bond on the third day of March, one thousand eight hundred and thirty-seven, and from said Bond to said Bullard on the twentieth day of March, one thousand eight hundred and thirty-eight.

To have and to hold the above described premises and improvements, with the appurtenances thereunto belonging, unto the said party of the second part, his heirs and assigns, to his and their own proper use and behoof, forever.

In testimony whereof, the said party of the first part have hereunto set their hands and seals the day and year first above written.

The above erasures made previous to signing.

THEOPHILUS BULLARD, [SEAL.]
LUCY BULLARD. [SEAL.]

In presence of—

TERRITORY OF WISCONSIN,
County of Lee, ss.

I, Edwin Guthrie, a justice of the peace of said county, do certify, that Theophilus Bullard and Lucy, his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in, and who executed, the same, did severally acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned. And the said Lucy Bullard having been by me made acquainted with the contents of said deed, and examined separate and apart from her said husband, acknowledged that she executed the same, and relinquished her dower to the premises therein conveyed voluntarily and without compulsion of her husband.

Given under my hand and seal, this 12th day of April, in the year of our Lord one thousand eight hundred and thirty-eight.

EDWIN GUTHRIE, [SEAL.]
Justice of the Peace..

Endorsed as follows, to wit: Received for record January 14th, 1839, at 8 o'clock, a. m., and recorded the same day and date at 9 o'clock, a. m.

The plaintiff objected to the introduction of any of said deeds, and the court sustained the objection, and ruled that said deeds, nor any one of them, should be excluded from the jury; to which opinion the defendant excepts, and prays the court to sign and seal this bill of exceptions.

CHARLES MASON, *Judge*. [SEAL.]

Bill of exceptions, No. 5.—Defendant's bill of exceptions, No. 5.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Right.

In district court, May term, 1845.

Be it known, that on the trial of this cause the defendant proved that he acquired the possession of the premises described in plaintiff's declaration, by a purchase as set forth in deeds included in defendant's 4th bill of exceptions, in the year 1838; that at the time he purchased there were improvements on said tract, and that he took possession, and has been in possession ever since. The defendant then produced evidence, and offered to prove by parole testimony, that no service had ever been made upon any person in the suits in which the judgments were rendered upon which the sale was made to plaintiff, as set forth in defendant's 2d bill of exceptions, which bill is referred to here, and made a part of this; that no notice was given by publication of the pendency of said suit; that the plaintiff was the counsel that procured said judgments; that said judgments were rendered upon a fictitious demand, were never proven before the auditor; that Webster and the

owners of the Half-breed tract of land, or some of them, were prevented from appearing and defending by the fraudulent representations of said plaintiff; that the sale was in fact never made by the sheriff, Taylor; that the whole returns of the sheriff, Taylor, was a fraudulent and false return. The plaintiff objected to the introduction of every part of said testimony, and the court ruled and decided that no part of said evidence was admissible, and ruled that the defendant should not introduce evidence to prove any of the facts above stated; to which ruling and decision the defendant excepts.

CHARLES MASON, *Judge*. [SEAL.]

Defendant's bill of exceptions, No. 6.—Bill of exceptions, No. 6.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Right.

In district court. May term, 1845.

Be it known, that on the trial of this cause the defendant filed an affidavit, as follows, to wit: "Joseph Webster makes oath and says that a certain deed, executed by Hawkins Taylor, sheriff and collector of Lee county, to R. F. Barrett, dated 27th of September, 1841, and recorded in Lee county, is not in his power to produce on this trial, and is material evidence in his behalf, to be read in the said trial of H. T. Reid vs. said Webster, as he is advised by his counsel.

JOSEPH WEBSTER.

Sworn and subscribed to before me, this 15th of May, 1845.

J. C. WALKER, *Clerk*.
By J. G. WALKER, *Deputy*.

After which, offered the recorder's record of Lee county as evidence of the deed mentioned in the affidavit. The plaintiff objected, the court sustained the objection, and ruled that the record of the deed should not be introduced as evidence; to which the defendant excepts and prays, &c.

CHARLES MASON, *Judge*. [SEAL.]

Endorsed. Filed May 15th, 1845.

J. C. WALKER, *Clerk*.

Defendant's bill of exceptions, No. 7.—Bill of exceptions, No. 7.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Right.

In the district court. May term, 1845.

Be it known, that on the trial of this cause the plaintiff offered in evidence an execution and return of the sheriff on a judgment in favor

TERRITORY OF WISCONSIN,
County of Lee, ss.

I, Edwin Guthrie, a justice of the peace of said county, do certify, that Theophilus Bullard and Lucy, his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in, and who executed, the same, did severally acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned. And the said Lucy Bullard having been by me made acquainted with the contents of said deed, and examined separate and apart from her said husband, acknowledged that she executed the same, and relinquished her dower to the premises therein conveyed voluntarily and without compulsion of her husband.

Given under my hand and seal, this 12th day of April, in the year of our Lord one thousand eight hundred and thirty-eight.

EDWIN GUTHRIE, [SEAL.]
Justice of the Peace..

Endorsed as follows, to wit: Received for record January 14th, 1839, at 8 o'clock, a. m., and recorded the same day and date at 9 o'clock, a. m.

The plaintiff objected to the introduction of any of said deeds, and the court sustained the objection, and ruled that said deeds, nor any one of them, should be excluded from the jury; to which opinion the defendant excepts, and prays the court to sign and seal this bill of exceptions.

CHARLES MASON, *Judge*. [SEAL.]

Bill of exceptions, No. 5.—Defendant's bill of exceptions, No. 5.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Right.

In district court, May term, 1845.

Be it known, that on the trial of this cause the defendant proved that he acquired the possession of the premises described in plaintiff's declaration, by a purchase as set forth in deeds included in defendant's 4th bill of exceptions, in the year 1838; that at the time he purchased there were improvements on said tract, and that he took possession, and has been in possession ever since. The defendant then produced evidence, and offered to prove by parole testimony, that no service had ever been made upon any person in the suits in which the judgments were rendered upon which the sale was made to plaintiff, as set forth in defendant's 2d bill of exceptions, which bill is referred to here, and made a part of this; that no notice was given by publication of the pendency of said suit; that the plaintiff was the counsel that procured said judgments; that said judgments were rendered upon a fictitious demand, were never proven before the auditor; that Webster and the

owners of the Half-breed tract of land, or some of them, were prevented from appearing and defending by the fraudulent representations of said plaintiff; that the sale was in fact never made by the sheriff, Taylor; that the whole returns of the sheriff, Taylor, was a fraudulent and false return. The plaintiff objected to the introduction of every part of said testimony, and the court ruled and decided that no part of said evidence was admissible, and ruled that the defendant should not introduce evidence to prove any of the facts above stated; to which ruling and decision the defendant excepts.

CHARLES MASON, *Judge*. [SEAL.]

Defendant's bill of exceptions, No. 6.—Bill of exceptions, No. 6.

HUGH T. REID vs. JOSEPH WEBSTER. } Right.

In district court. May term, 1845.

Be it known, that on the trial of this cause the defendant filed an affidavit, as follows, to wit: "Joseph Webster makes oath and says that a certain deed, executed by Hawkins Taylor, sheriff and collector of Lee county, to R. F. Barrett, dated 27th of September, 1841, and recorded in Lee county, is not in his power to produce on this trial, and is material evidence in his behalf, to be read in the said trial of H. T. Reid vs. said Webster, as he is advised by his counsel.

JOSEPH WEBSTER.

Sworn and subscribed to before me, this 15th of May, 1845.

J. C. WALKER, *Clerk*.
By J. G. WALKER, *Deputy*.

After which, offered the recorder's record of Lee county as evidence of the deed mentioned in the affidavit. The plaintiff objected, the court sustained the objection, and ruled that the record of the deed should not be introduced as evidence; to which the defendant excepts and prays, &c.

CHARLES MASON, *Judge*. [SEAL.]

Endorsed. Filed May 15th, 1845.

J. C. WALKER, *Clerk*.

Defendant's bill of exceptions, No. 7.—Bill of exceptions, No. 7.

HUGH T. REID vs. JOSEPH WEBSTER. } Right.

In the district court. May term, 1845.

Be it known, that on the trial of this cause the plaintiff offered in evidence an execution and return of the sheriff on a judgment in favor

of Edward Johnston vs. Owners of Half-breed lands in Lee county, in words following, to wit:

IOWA TERRITORY, *Lee county, ss.*

The United States of America, to the sheriff of said county, greeting:

You are hereby commanded to cause to be made of the goods, chattels, lands, and tenements, in your county, of the owners of the Half-breed lands in Lee county, the sum of twelve hundred and ninety dollars debt, and sixteen dollars and thirty cents of suit, which by the judgment of the district court for said county, at the August term thereof, A. D. 1839, Edward Johnston recovered a judgment against the said owners of the Half-breed lands in Lee county, with interest thereon from August 29th, 1839, until paid; and that you cause to be made, as aforesaid, the further sum of one dollar and cents, costs of increase on said judgment; together with all other legal costs which may accrue by virtue of this writ; and that you have said sums of money before the clerk of said court within seventy days from this date [to] render to the said Edward Johnston, and have then and there this writ with your doings hereon; and fail not at your peril.

Witness the honorable Charles Mason, judge of our said court, with the seal thereof hereunto affixed, at Fort Madison, this 26th [SEAL.] day of November, 1841.

O. S. X. PECK,
Clerk of the district court.

Upon which the sheriff made the following return, to wit: January 1st, 1842, levied the within execution on the Half-breed Sac and Fox reservation in Lee county, I. T., commonly called the Half-breed tract; advertised the same for sale January 1st, 1842. January 1st, 1842, sold the above described tract of land; bought by H. T. Reid for the sum of twenty-eight hundred and eighty-four dollars $\frac{66}{100}$—seventeen hundred and sixty-two dollars and $\frac{66}{100}$, to be endorsed in full satisfaction of the within execution.

HAWKINS TAYLOR,
Sheriff Lee county.

Serving execution and advertising sale - - - - -	$2 00
Selling land and per centum - - - - - -	85 20
	$87 20

To the introduction of which the defendant excepts, and prays the court to sign and seal this bill of exceptions.

Also, the plaintiff offered in evidence to the jury an execution issued in favor of Brigham, as follows, to wit:

IOWA TERRITORY, *Lee county, ss.*

The United States of America, to the sheriff of said county, greeting:

You are hereby commanded to cause to be made of the goods, chattels, lands, and tenements, in your county, of the owners of the Half-

breed lands, lying in Lee county, the sum of eight hundred and eighteen dollars debt, and thirteen dollars and forty-four cents costs of suit, which by the judgment of the district court for said county, at the August term thereof, A. D. 1839, David Brigham recovered against the said owners of the Half-breed lands in Lee county, with interest thereon from August 30th, 1839, until paid. And that you cause to be made, as aforesaid, the further sum of one dollar and costs of increase on said judgment, together with all other legal costs which may accrue by virtue of this writ; and you have said sums of money before the clerk of said court, within seventy-days from this date, to render to the said David Brigham, and have then and there this writ, with your doings hereon, and fail not at your peril.

Witness the honorable Charles Mason, judge of our said court, with the seal thereof hereunto affixed, at Fort Madison, this 26th [L. S.] day of November, 1841.

O. S. X. PECK,
Clerk of the district court.

Upon which the sheriff made the following return, to wit: Levied the within execution on the Half-breed tract of land, situated between the Mississippi and Des Moines river, granted by treaty to the Half-breeds of the Sac and Fox tribes of Indians; advertised same for sale for January 1st, 1842. January 1st, 1842, sold the above described tract of land; bought by Hugh T. Reid, for the sum of twenty-eight hundred and eighty-four dollars and $\frac{66}{100}$; eleven hundred and twenty-two dollars to be endorsed on this execution.

HAWKINS TAYLOR,
Sheriff of Lee county.

Serving execution - - -	- $1 00
Selling land and advertising -	- 2 50
Per centum - - -	- 56 80
	$59 30

To which defendant objected, and the court overruled the objection, and admitted the *the* execution to be read to the jury; to which defendant excepts, and *pay* the court to sign and seal this bill of exceptions. Also, that the plaintiff offered in evidence the deed executed by Wm. Stotts, sheriff of Lee county, to plaintiff, as follows, to wit:

"This indenture, made this second day of January, A. D. eighteen hundred and forty-three, between William Stotts, sheriff of Lee county, in the Territory of Iowa, of the first part, and Hugh T. Reid, of the county and Territory aforesaid, of the second part, witnesseth: That whereas, by the consideration of the district court, in and for the said county of Lee, at the August term of the said court, A. D. 1839 eighteen hundred and thirty-nine, holden at the town of Fort Madison, in the said county, Edward Johnston *recoved* a judgment against the

owners of the Half-breed lands lying in Lee county, for the sum of twelve hundred and ninety dollars, and costs of suit, upon which judgment a writ of execution issued from the said court on the 26th day of November, A. D. 1841, directed to Hawkins Taylor, then sheriff of the county aforesaid. And whereas, also, by the consideration of the said district court, at the August term of said court, A. D. 1839, David Brigham recovered a judgment against the said owners of the Half-breed lands lying in Lee county, for the sum of eight hundred and eighteen dollars, and costs of suit, upon which judgment a writ of execution issued from the said court, on the 26th day of November, A. D. 1841, directed to Hawkins Taylor, then sheriff of the said county. And whereas, by virtue of the said several writs of execution, and in order to satisfy the same, the said Hawkins Taylor, then sheriff as aforesaid, did seize and levy upon the following described tract or parcel of land of the owners of the Half-breed lands lying in Lee county, to wit: All that tract of land lying between the Mississippi and Des Moines rivers, and south of a line drawn from a point on the Des Moines river opposite the point where the northern boundary of the State of Missouri strikes the Mississippi, commonly known as the Half-breed lands, lying in Lee county, and containing one hundred and nineteen thousand acres, more or less; the said tract of land lying, being, and situate in the county of Lee, and Territory of Iowa aforesaid. And whereas, afterwards, in persuance of such levy, by virtue of the said writ of execution, on the first day of January, A. D. 1842, the said Hawkins Taylor, then sheriff as aforesaid, having duly advertised the said above described premises according to law, did sell the same at public outcry, to the aforesaid Hugh T. Reid, who was the highest bidder, and the purchaser at said sale, for the sum of twenty-eight hundred and eighty-four dollars and sixty-six cents, which was the best price said premises would bring. Now, therefore, to convey the title and interest of the said owners of the Half-breed lands lying in Lee county, in and to the above described premises, the said premises not having been redeemed in accordance with the statute in such case made and provided, and the said Hawkins Taylor not having made a deed for the same, during his continuance in office, to the said Hugh T. Reid, the purchaser at said sale as aforesaid, this indenture further witnesseth, that I, William Stotts, present sheriff of the said county, and successor in office of the said Hawkins Taylor, for and in consideration of the sum [of] twenty-eight hundred and eighty-four dollars and sixty-six cents, to the said Hawkins Taylor, sheriff as aforesaid, in hand paid by the said Hugh T. Reid, the receipt whereof is hereby acknowledged; and by virtue of the authority and of the power vested in me as sheriff as aforesaid by the laws of the Territory of Iowa, have given, granted, bargained, sold, and conveyed, and by these presents, do give, grant, bargain, sell, and convey, unto the said Hugh T. Reid, and to his heirs and assigns forever, the following above described premises, to wit: All that tract of land lying between the Mississippi and Des Moines rivers, and south of a line drawn from a point on the Des Moines river, opposite the point

where the northern boundary of the State of Missouri strikes the same, to the Mississippi, commonly known as the Half-breed lands, lying in Lee county, and containing one hundred and nineteen thousand acres, more or less; the said tract of land lying, being, and situate in the county of Lee and Territory of Iowa aforesaid, with all the right, interest, claim, and demand of the said owners of the Half-breed lands lying in Lee county, in, over, and to the same and every part and parcel thereof; to have and to hold all the above granted premises and appurtenances thereto belonging, or in anywise appertaining, to the said Hugh T. Reid, his heirs and assigns forever.

In testimony whereof I have hereunto set my hand and seal the day and year first aforesaid.

[L. S.]

WILLIAM STOTTS,
Sheriff of Lee county.

Signed, sealed, and delivered in presence of—
NATHANIEL MARSH.

TERRITORY OF IOWA, *Lee county, sct.*

Before me, the undersigned, a justice of the peace in and for said county, appeared William Stotts, sheriff of the said county, known to me to be the identical person who executed the foregoing deed, and acknowledged the same to be his act and deed for the purposes therein expressed.

Given under my hand this second day of January, A. D. 1843.

JOSIAH COWLES,
Justice of the peace.

Endorsed: Filed for record, January 2d, 1843, at 9 o'clock, a. m., and duly recorded the same day and date, at 11 o'clock, a. m., in Deed book, vol. 3, pages 351–'2.

HENRY H. O. NEIL,
Recorder of deeds, L. C. I. T.

To which the defendant excepted, but the court overruled the objection and admitted the deed; to which ruling the defendant excepts, and prays, &c.

CHARLES MASON, *Judge.* [L. S.]

Endorsed: Filed May 15th, 1845.

J. C. WALKER, *Clerk*,
By J. G. WALKER, *Deputy*.

Bill of exceptions, No. 8.

Defendant's bill of exceptions, No. 8.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Action of right.

May term, 1845.

Be it remembered, that on the trial of this cause the plaintiff proved nothing in addition to the evidence introduced, as set forth in bill of ex-

ceptions, number two, (2;) all the evidence given to the jury by the plaintiff, on examination in chief, or in rebutting evidence, is the evidence contained in defendant's bill of exceptions on the motion to non-suit plaintiff, and it is here referred to and fully admitted.

Upon this state of facts the defendant prays the court to instruct the jury as follows, to wit:

1st. That unless it was proved to the satisfaction of the jury that there was some person or persons within the Territory of Iowa, at the time of the issuing of the process, or appeared at the trial, or at some stage of the proceedings, that were within the jurisdiction of the district court of Lee county, during the pendency of the suits of Johnston and Brigham, upon which this title accrued, that owned or had an interest in those lands, that they must find for the defendant.

2d. That unless they find, from the evidence, that there were owners, and persons or corporations, other than the Government, who were owners, or had an interest in said land, at the commencement of these suits by Johnson and Brigham, that they must find for the defendant.

3d. That unless the jury find that some one or more of the owners of the Half-breed tract of land were citizens of the Territory of Iowa at the time of the passage of the act of Iowa Legislature, passed January 25th, 1839, or between that time and the time of the execution of the deed by [the] sheriff to the plaintiff, that they must find for the defendant.

4th. That unless it has been proved to the jury that [the] defendants sued by Johnston and Brigham, and upon whose judgments the plaintiff claims his title, were a corporation by virtue of law, and acting as such, are liable as such, or a partnership firm by that name, or some kind of an association who had assumed the name of owners of the Half-breed lands in Lee county, that the plaintiff cannot recover.

5th. That if it is not proved to the jury that the judgments of Johnston and Brigham *was* rendered against some person or persons, body corporate or association of individuals, whose existence has been proved to exist at the commencement of the suit, or at the rendition of judgments, that they must find for the defendant.

6th. That a judgment against a dead person, or a person who has no existence whatever, is no judgment at all in contemplation of law, and a sale under such a judgment is void.

Which said instructions, so prayed for by the defendant, as above stated, to be given severally as stated above to the jury, the court refused to give, and the court refused each and every instruction, severally above prayed for, as mentioned from one to six; to which refusal, and ruling, and decision of the court the defendant excepts, and prays the court to sign and seal this bill of exceptions.

CHARLES MASON, *Judge.* [L. S.]

And afterwards, to wit, on the 21st day of May, 1845, the following affidavit was filed, to wit:

Affidavit of defendant.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Action of right.

In the district court of Lee county, May term, 1845.

Joseph Webster, defendant in the above action, makes oath and says, that the value of the property in controversy in the above suit exceeds one thousand dollars.

JOSEPH WEBSTER.

Subscribed and sworn to, the 21st day of May, A. D. 1845, in open court.

J. C. WALKER, *Clerk*.

Bond for supersedeas.

HUGH T. REID
vs.
JOSEPH WEBSTER. } Right.

On this day came said Joseph Webster as principal, and Benjamin Casey and John McCready as security, and acknowledged themselves indebted to the said Hugh T. Reid, in the penal sum of five hundred dollars, conditioned that the said Joseph Webster will prosecute a writ of error in this cause with effect, and pay the money that may therein be adjudged against him by the Supreme Court, with all damages that may be awarded, and otherwise abide the judgment of said court.

Clerk's certificate.

TERRITORY OF IOWA, *county of Lee, ss.*

I, Joel C. Walker, clerk of the district court in and for said county, do hereby certify, that the foregoing is a true and complete copy of the papers, laws, and record in said cause of Hugh T. Reid vs. Joseph Webster, which was tried in the district court for the county and Territory aforesaid, at the May term of said court, A. D. 1845.

In witness whereof I have hereunto set my hand and affixed the seal of the district court at office, in the town of Fort Madi-
[SEAL.] son, this second day of December, 1845.

JOEL C. WALKER, *Clerk D. C.*
By J. G. WALKER, *Deputy*.

Endorsed—Filed in my office, January 5th, 1846.
Test: GEO. S. HAMPTON, *C. S. C.*

And afterwards, to wit, at a supreme court, continued and held for Iowa Territory, at the State-house, in Iowa city, on the 7th day of January, 1845.

Cause set for oral argument.

This day came the parties aforesaid, by their attorneys, and by their mutual consent it is ordered by the court that this cause be set for oral argument on Wednesday next.

And afterwards, to wit, on the 14th day of January, A. D. 1845, the said Joseph Webster, the plaintiff in error, by Messrs. Hall & Miller, filed the following assignment of errors herein, to wit:

Assignment of errors.

And now comes the plaintiff in error and assigns the errors in the record and proceedings of the court below, as follows:

1st. The court below erred in admitting as evidence the judgment, execution, levy, and return of the sheriff in the case of Edward Johnston vs. Owners of the Half-breed land in Lee county, as stated in bill of exceptions No. 1 and 7.

2d. The court below erred in admitting as evidence to the jury the judgment, execution, levy, and return of the sheriff in the case David Brigham vs. The owners of the Half-breed land lying in Lee county, as stated in bill of exceptions No. 1 and 7.

3d. The court erred in admitting as evidence to the jury the deed executed by William Stotts, sheriff, as set forth in plaintiff's bill of exceptions No. 7.

4th. The court erred in overruling the motion of defendants below for a nonsuit, as set forth in bill of exceptions No. 2.

5th. The court erred in refusing to admit the defendant below to introduce evidence to prove that the judgments, executions, sheriff's sale and sheriff's deed, containing the evidence introduced by the plaintiff below, was procured by fraud by said plaintiff below and others, and that the whole title was based upon fraud and fiction, as set forth in bill of exceptions No. 3.

6th. The court erred in refusing to admit the deed from Ne-ma-taupas to John Bond, also the deed from John Bond to Theophilus Bullard, and from Theophilus Bullard and wife to defendant below, as set forth in bill of exceptions No. 4.

7th. The court erred in excluding from the jury evidence to prove that no service had ever been made upon any person in the suits in which judgments *was* rendered in favor of Johnston and Brigham. That there had been no publication of the pendency of said suits. That plaintiff below was the counsel in said suits and procured said judgments; and said judgments were rendered upon fictitious demands; were never proven before the auditors. That Webster and the owners of the Half-breed tract of land, or some of them, were prevented from appearing and defending by the fraudulent representations of plaintiff below. That the sale was in fact never made by the sheriff, Taylor. That the whole return of the executions by Sheriff Taylor was "a fraudulent and false return," as set forth in bill of exceptions No. 5.

8th. The court below erred in excluding from the jury the record of the deed from Taylor to Barret, as referred in bill of exceptions No. 6.

9th. The court below erred in refusing the instructions severally prayed for by def'ts below, as stated in bill of exceptions No. 8, as continued from 1 to 6th instruction.

For which errors in the record and proceeding of the court below the plaintiff prays that said judgment may be reversed.

J. C. HALL & D. F. MILLER,
Att'ys for pl'ff in error.

Joinder in error.

To which the defendant in error on the said 14th day of January, 1845, filed the following joinder in error, to wit: "And the defendant, by his attorney, comes and says, that there are no such errors in the record, judgment, and proceedings as the plaintiff hath alleged; wherefore he prays that said judgment may be affirmed with damages and costs.

STARR & WALKER, *P. D.*

And afterwards, to wit, at a supreme court, continued and held in and for Iowa Territory as aforesaid, on the 19th day of January, A. D. 1846:

Arguments of counsel commenced.

This day came the parties aforesaid, by their attorneys, and thereupon this cause came on to be heard upon the transcript of the record and judgment of the court below, the assignment of errors and joinder thereto; and the court not having time to-day to hear the arguments of the counsel, it is therefore ordered by the court that the further hearing of this cause be suspended until to-morrow morning.

And afterwards, to wit, at a supreme court, continued and held as aforesaid, on the 20th day of January, A. D. 1846:

Counsel further heard.

The attorney for the plaintiff in error was further heard in his argument in this cause.

And afterwards, to wit, at a supreme court, continued and held as aforesaid, on the 21st day of January, A. D. 1846:

Same.

This day came the parties aforesaid, by their attorneys, and the court not having time to hear the arguments of counsel on both sides, it is therefore ordered, that the further hearing be continued on to-morrow.

And afterwards, to wit, at a supreme court, continued and held as aforesaid, on the 22d day of January, A. D. 1846:

Counsel further heard.

This day this cause came on for further hearing, and there not being time for the court to hear the arguments of counsel on both sides, the further hearing is continued on to-morrow.

And afterwards, to wit, at a supreme court continued and held as aforesaid, on the 23d day of January, A. D. 1846:

Same.

The argument of counsel was further heard by the court in this cause this day.

And afterwards, to wit, at a supreme court continued and held as aforesaid, on the 24th day of January, A. D. 1846:

Taken under advisement.

The court having heard the arguments of counsel on both sides, and not being sufficiently advised in the premises, took the same under advisement.

And now, at this time, to wit, at a supreme court continued and held as aforesaid, on the 26th day of January, A. D. 1846:

This day this cause came on for further hearing, and the court being now sufficiently advised in the premises, affirm the judgment of the court below.

Judgment affirmed.

It is therefore considered by the court, that the judgment of the court below be affirmed, and that a writ of procedendo issue to the court below accordingly; and it is further considered by the court, that the defendant in error recover of the plaintiff in error the costs herein expended in this court, and that execution issue therefor.

And afterwards, to wit, on the 3d day of February, A. D. 1846, the said Joseph Webster, the plaintiff in error, filed herein the following affidavit, to wit:

Affidavit of plaintiff in error.

UNITED STATES OF AMERICA,
Territory of Iowa, ss.

JOSEPH WEBSTER }
vs.
HUGH T. REID. }

Supreme Court of the United States; error to supreme court of the Territory of Iowa. Judgment of affirmation at January term of said court, 1846.

Joseph Webster, plaintiff in error in the above case, makes oath and says, that the value of the property in controversy in the above suit exceeds the sum of one thousand dollars.

JOSEPH WEBSTER.

Sworn to and subscribed this 31st day of January, 1846, before me,
JOHN S. DUNLAP, [L. S.]
Clerk of the district court of Des Moines county.

Endorsed.—Filed February 3d, 1847.
Test: GEORGE S. HAMPTON, *C. S. C.*

And afterwards, to wit, on the 13th day of November, 1847, the said Joseph Webster, the plaintiff in error, filed herein the following bond, to wit:

Bond.

Know all men by these presents, that we, Joseph Webster, Daniel F. Miller, and [J. Huner,] are held and firmly bound unto Hugh T. Reid in the full and just sum of eight hundred dollars, to be paid to the said Hugh T. Reid, his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this tenth day of November, in the year of our Lord one thousand eight hundred and forty-seven.

Whereas lately, at a supreme court of the Territory, now State of Iowa, in a suit depending in said court between Joseph Webster, plaintiff in error, and the said Hugh T. Reid, defendant in error, judgment was rendered against the said Joseph Webster, and the said Joseph Webster having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Hugh T. Reid, citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next.

Now, the condition of the above obligation is such, that if the said Joseph Webster shall prosecute his said writ of error to effect, and answer all damages and costs, if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

JOSEPH WEBSTER, [SEAL.]
DANIEL F. MILLER, [SEAL.]
J. HUNER. [SEAL.]

Sealed in delivered in presence of—
THOMAS S. ESPY.

Approved by JOHN F. KINNEY,
Judge of the supreme court of Iowa.

Endorsed.—Filed in my office, November 13, 1847.
Test: GEORGE S. HAMPTON,
Clerk of the supreme court of Iowa.

STATE OF IOWA, ss.

I, George S. Hampton, clerk of the supreme court in and for the State of Iowa, do hereby certify, that the foregoing sixty-eight and one-half pages hereto attached, contains a full, true, and complete transcript of the record and proceedings had between the said Joseph Webster, plaintiff in error, against Hugh T. Reid, defendant in error, in the supreme court of the Territory of Iowa, on a writ of error to the judg-

ment of the district court of Lee county, as full, true, and complete as the same romains in my office.

In witness whereof I have hereunto set my name, and affixed the seal of the said supreme court, this 20th day of November, A. D. 1847.

[L. S.]

GEORGE S. HAMPTON,
Clerk of the supreme court of Iowa.

UNITED STATES OF AMERICA, *ss.*

The President of the United States, to the honorable the judges of the supreme court of the Territory, now State of Iowa, greeting:

[L. S.]

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court, before you, or some of you, between Joseph Webster, plaintiff in error, and Hugh T. Reid, defendant in error, a manifest error hath happened, to the great damage of the said Joseph Webster, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and forty-six.

WILLIAM THOMAS CARROLL,
Clerk of the Sup. Court of the U. S.

Allowed by

JOHN F. KINNEY,
Judge of the supreme court of Iowa.

The tenth day of November, 1847.

STATE OF IOWA, *ss.*

In obedience to the command of the within writ of error, I hereto attach a copy of transcript of the record and proceedings had in the cause within mentioned for the Supreme Court of the United States.

In witness whereof I have hereunto set my name, and affixed the seal of the supreme court for the State of Iowa, this 20th day of November, A. D. 1847.

[L. S.]

GEORGE S. HAMPTON,
Clerk of the supreme court of the State of Iowa.

A true copy of the within writ of error was this day lodged in my office for Hugh T. Reid, defendant in error.

13th November, 1847. GEO. S. HAMPTON,
Clerk supreme court of the State of Iowa.

Filed in my office, November 13th, 1847.

Test: GEORGE S. HAMPTON,
Clerk supreme court, Iowa.

The United States of America, to Hugh T. Reid, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error, filed in the clerk's office of the supreme court of the Territory, now State of Iowa, wherein Joseph Webster is plaintiff in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable John F. Kinney, judge of the supreme court of the State of Iowa, this 13th day of November, in the year of our Lord one thousand eight hundred and forty-seven.

STATE OF IOWA, *county of Lee, ss.*

On this 13th day of November, in the year of our Lord one thousand eight hundred and forty-seven, personally appeared Thomas C. Young, of the county of Lee, and State of Iowa, before me, the subscriber, R. W. Albright, clerk of the district court in and for the county of Lee, and State aforesaid, and makes oath that he delivered a true copy of the within citation to Hugh T. Reid, the defendant in error, mentioned in the annexed citation, on the eighteenth day of November, in the year 1847, by delivering a copy to him, and at the same time showing him the original hereto annexed.

In testimony whereof I have hereto affixed my name and seal of office, the day and year aforesaid.

[L. S.]

R. W. ALBRIGHT,
Clerk of district court.

Know all men by these presents, that we, Joseph Webster, Daniel F. Miller, *and*, are held and firmly bound unto Hugh T. Reid in the full and just sum of eight hundred dollars, to be paid to the said Hugh T. Reid, his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this 10th day of November, in the year of our Lord one thousand eight hundred and forty-seven.

Whereas lately, at a supreme court of the Territory, now State of Iowa, in a suit depending in said court, between Joseph Webster, plaintiff in error, and the said Hugh T. Reid, defendant in error, judgment

was rendered against the said Joseph Webster; and the said Joseph Webster having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Hugh T. Reid citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington, the first Monday of December next:

Now, the condition of the above obligation is such, that if the said Joseph Webster shall prosecute his said writ of error to effect, and answer all damages and costs if he fails to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

JOSEPH WEBSTER, [SEAL.]
DANIEL F. MILLER, [SEAL.]
J. HUNER. [SEAL.]

Sealed and delivered in presence of—
THOMAS S. ESPEY.

Approved by

JOHN F. KINNEY,
Judge of the supreme court of Iowa.

SUPREME COURT OF THE UNITED STATES:

JOSEPH WEBSTER, plaintiff in error, vs. HUGH T. REID, defendant in error. } Error to the supreme court of Iowa.

Assignment of errors.

And now comes the said Joseph Webster, plaintiff in error, by Geo. C. Dixon, his counsel, and says, that there is error in the record and proceedings of the said supreme court of the then Territory, now State of Iowa, and he assigns the following for error:

1st. That the declaration aforesaid, and the matters therein contained, are not sufficient in law to maintain the said action.

2d. That said judgment was given in favor of the said defendant in error, when, by the laws of the land it ought to have been given in favor of the said plaintiff in error; and there is error in the said record and proceedings more especially in the following particulars, viz:

1st. In admitting in evidence the judgments, or either of them, respectively, rendered upon the auditor's reports in favor of Johnston and Brigham as contained in bill of exceptions No. 1.

2d. In admitting in evidence the judgment, execution, levy, sheriff's return, and sheriff's deed, or either of them, in the case of "Edward Johnston vs. Owners of the Half breed lands in Lee county," as stated in bills of exceptions Nos. 2 and 7.

3d. In admitting in evidence the judgment, execution, levy, sheriff's return, and sheriff's deed, or either of them, in the case of "David Brigham vs. The owners of the Half-breed land lying in Lee county," as stated in bills of exceptions Nos. 2 and 7.

4th. In overruling the motion of plaintiff in error for a non suit, as set forth in bill of exceptions No. 2.

5th. In refusing to admit evidence by the defendant below, showing fraud by the plaintiff below, and others, in procuring the said judgments, executions, levies, sheriff's returns, and sheriff's deed, allowed in evidence, as set forth in bills of exceptions Nos. 3 and 5; and that the whole title of the plaintiff below was based upon fraud and fiction.

6th. In refusing, after the parol evidence set forth in bill of exceptions No. 4, to admit the deeds in evidence showing a regular chain of title from *Ne-ma-taw-pas* to the plaintiff in error, as recited in bill of exceptions No. 4.

7th. In excluding from the jury the record of the deed from Taylor, sheriff of Lee county, to Barret, as stated in bill of exceptions No. 6; and

8th. In refusing the intructions severally prayed for by defendant below, as stated in bill of exceptions No. 8, and numbered from 1 to 6 inclusive.

Wherefore the said Joseph Webster, plaintiff in error, prays that the said judgment may be reversed; and that he may be restored to all things which he has lost by reason thereof.

GEO. C. DIXON,

Att'y and of counsel for the above plaintiff in error in the Supreme Court of the U. States.

SUPREME COURT OF THE UNITED STATES.

No. 175.

JOSHUA J. MOORE, PLAINTIFF,

vs.

JAMES BROWN, ALFRED BROWN, HARMON HOGAN, AND JOSEPH FROWARD.

CERTIFICATE OF DIVISION FROM CIRCUIT COURT UNITED STATES FOR ILLINOIS.

THE UNITED STATES OF AMERICA, *district of Illinois.*

At a circuit court of the United States, began and held at Springfield, for the district of Illinois, on Monday, the seventh day of June, in the year of our Lord one thousand eight hundred and forty-seven, and in the seventy-first year of our independence.

Present, the Hon. John McLean and the Hon. Nathaniel Pope, esquires.

JOSHUA J. MOORE
vs.
JAMES BROWN, Alfred Brown, Harmon Hogan, and Joseph Froward.

State of the pleadings.

This is an action of ejectment brought under the statute of the State of Illinois, "and plea not guilty of withholding the premises, according to the same statute.

This cause coming to trial this term, the plaintiff proved title in himself, regularly derived from the United States; and by special agreement the possession of the defendants was admitted.

The defendants then proposed to prove that they had been possessed of the premises in question by actual residence thereon, having a connected title thereto in law or equity, deducible of record from a public officer of the State of Illinois, authorized by the laws of the State to sell land for the non-payment of taxes, for the term of seven years next preceding the commencement of this suit; and as the first link of

GIDEON, Printer.

evidence towards making such proof, stating that they would follow it up by other complete proofs, offered in evidence a deed made by the auditor of public accounts of the State of Illinois, which deed is in the words, figures, and seal following, to wit, "The auditor of public accounts of the State of Illinois, to all who shall see these presents, greeting: Know ye, that whereas I did, on the 9th day of December, 1823, at the town of Vandalia, in conformity with all the requisitions of the several acts in such cases made and provided, expose to public sale a certain tract of land, being the south half of section thirty-five, township twelve north, in range one west, of the 4th principal meridian, for the sum of ten dollars and eighty-one cents, being the amount of the tax of the years 1821 and 1822, with the interest and costs chargeable on said tract of land. And whereas at the time and place aforesaid, Stephen Davis offered to pay the aforesaid sum of money for the whole of said tract of land, which was the least quantity bid for; and the said Stephen Davis has paid the sum of ten dollars eighty-one cents, into the treasury of the State; I have granted, bargained, and sold, and by these presents, as auditor of the aforesaid State, do grant, bargain, and sell, the whole of said south half of section thirty-five, in township twelve north, in range one west, of the 4th principal meridian, to Stephen Davis, his heirs and assigns. To have and to hold said tract of land to the said Stephen Davis and his heirs forever; subject, however, to all the rights of redemption provided for by law.

In testimony whereof the said auditor has hereunto subscribed his name and affixed his seal, this 20th day of June, 1832.

J. T. B. STAPP, *Auditor*. [SEAL.]

STATE OF ILLINOIS, *State Recorder's office, ss.*

I certify that the within deed has been duly recorded in this office, in vol. F, page 281; given under my hand and seal of office, at Vandalia, this 31st day of May, A. D. 1833.

JAMES WHITLOCK, *State Recorder*.

Fees $43\frac{1}{3}$ record,
$37\frac{1}{2}$ cert. and seal.

$\$0\ 81\frac{1}{4}$

Which deed includes the premises in question in this suit; to the introduction of which deed the plaintiff objects, on the ground that, by reference to the face of the deed, and the law as it then stood, (an act entitled, an act for levying and collecting a tax on land and other property, approved February 18th, 1823,) it appeared that the sale for the non-payment of taxes had been made by the auditor at an earlier day than he could according to law possibly do. And so it occurred as a question whether said deed was admissible in evidence for the purpose and in the connection for and in which the defendants offered it, the objection aforesaid, notwithstanding; on which question the opinions of the judges were opposed. Whereupon, on motion that

the point on which the disagreement has happened may during the term be stated, under the direction of the judges, and certified under the seal of the court to the Supreme Court, to be finally decided; it is ordered, that the foregoing statement of the case and facts, made under the direction of the judges, be certified according to the request of the plaintiff, and the law in that case made and provided.

I, William Pope, clerk of the circuit court of the United States, for the district of Illinois, do hereby certify the foregoing to be a true copy from the record. Given under my hand and seal of office, this 14th day of November, in the year of our Lord one thousand eight hundred and forty-eight.

WM. POPE, *Clerk*.